

**Town of Bethany Beach  
Planning Commission Minutes  
January 21, 2012**

The Bethany Beach Planning Commission held a meeting on Saturday, January 21, 2012 at 9:00 a.m. in the Bethany Beach Town Hall, 214 Garfield Parkway, Bethany Beach, DE 19930.

The following members were present: Lew Killmer, who presided; Mike Boswell; Faith Denault; John Gaughan; Fulton Loppatto; and Chuck Peterson.

Also present: Susan Frederick, Building Inspector; Lindsey Good, Administrative Secretary; and interested members of the public

- *Before the opening of the meeting, Mr. Killmer extended his thoughts and condolences to Kathleen Mink, who has passed away, and her family. He expressed that Ms. Mink was a both a great friend and member of the Planning Commission for many years. She will be dearly missed.*

**OPENING OF MEETING**

*Approval of Agenda*

Ms. Denault made a motion to approve the agenda. Seconded by Mr. Gaughan, the motion was unanimously approved.

*Discussion/Approval of the Planning Commission Minutes of October 22, 2011*

Ms. Denault made a motion to approve the minutes dated October 22, 2011. Mr. Gaughan seconded the motion and it was unanimously approved.

*Announcements/Comments/Updates*

**Non-Residential Design Review Update (Killmer)**

Mr. Killmer gave the following report:

The Committee held a meeting on December 9, 2011 to review, discuss and vote on an application submitted by Barbara Howard of PNC Bank, for a new pole sign to replace an existing pole sign, for property located at 2 S. Pennsylvania Ave., Lot 107, Blocks 22-24, C-1 Zoning District, Bethany Beach, DE. The application was approved.

Currently there are no scheduled applications for review by the Design Review Committee.

Ms. Frederick reported that the owner of the Blue Crab Restaurant is considering submitting a set of plans to be reviewed in the near future.

### **Comments/Updates Regarding the January Town Council Meeting (Killmer)**

Mr. Killmer gave the following report:

- Council approved an ordinance to amend Chapter 530 (Signs) Article V (Sign Permits: Application and Processing Procedures) Section 20 (b) (Temporary Permits for Special Event Signs) of the Code. This ordinance allows applicants to request the size of future banners and windblown signs up to 50 square feet upon approval by the Town Manager.
- Council adopted an ordinance to amend Chapter 530 (Signs) Article VIII (Nonconforming Signs, Section 28 (Existing Nonconforming Signs – Abatement) of the Town Code. The ordinance clarifies regulations for signage as it pertains to non-conforming legal signs.
- There was a First Reading on an ordinance to amend Chapter 56 (Personnel Policies), which proposes to delete a recently passed amendment to an existing ordinance that requires approval by the Town Council for any change to personnel and administrative policies that is made by the Town Manager.
- Council approved a change to the Town's Schedule of Fees to add Administrative Fees for failure to pay Business License and Rental License Fees when payments are due. Mr. Killmer explained that that ninety-six percent of property owners always pay the fees on time, but there is an expense for the Town to mail out notices to the remaining property owners that do not pay on time. Those who are late renewing a rental license will pay a \$50.00 fine and those late renewing a business will pay a \$100.00 fine.
- A resolution to support the Assawoman Canal Path was approved with modifications.
- Council voted against a proposal submitted by Velocitel regarding leasing space on the Collins Street water tower for cell phone antennae. Mr. Killmer explained that issues dealing with security, congestion at the water facility and potential added noise were issues that were the reasons to deny AT&T the use of the Town's water standpipe.

Ms. Denault questioned if there has been any movement at all on the removal of the tower behind Arby's Restaurant on Route 1.

Mr. Killmer explained that once the judge makes a decision, the tower will be replaced with a permanent and larger cell tower or be removed. It was denied by Sussex County Board of Adjustment and is being appealed to the Superior Court.

Council approved a contract submitted by Kebony to purchase advanced wood composite lumber for decking and railing on the boardwalk.

Mr. Boswell commented that the current wood on the boardwalk is slippery when wet.

### **Comments, Q&A and Discussion for Planning Commissioner Members (All)**

There were no questions or comments at this time.

## NEW BUSINESS

### *Amend/Correct Footnotes (l) and (m) in the Table of Dimensional Requirements in the Zoning Code of the Town of Bethany Beach (Frederick)*

Ms. Frederick stated that she had found several errors in the footnotes as related to the R-1A District that should be corrected as a matter of “housekeeping”. District R-1A is the Boardwalk Residential District, which consists of the residential boardwalk properties between Garfield Parkway and Second Street.

Under the columns for the District R-1A:

- *Footnote (l) is located under the column for “Maximum Lot Coverage by Buildings (a) (percent)”. Footnote (l) states “None required unless the lot abuts the R-1 Residential or R-2 Residential District, in which case a side yard of not less than seven feet is required”. This is the only place where footnote (l) is located and it is not related to lot coverage, thus it should be deleted from this column.*
- *The R-1A District permits a minimum lot area of 2,500 square feet per dwelling unit, the smallest lot area permitted in any district. The intent of the code for maximum lot coverage in this District should be the same as that for multi-dwelling unit buildings in other residential districts as well as for multi-dwelling unit buildings in the C-1 Commercial District – 40%. I recommend that “40%” be added to the Table under this column.*
- *Under the column for “Minimum Yard Depth” for the column labeled “Side”, the minimum side yard depth is shown as “0” and footnote (m) is listed. Footnote (m) states “Total lot area, less the required off-street loading, parking and yard setbacks required by this code”. This is the only location of footnote (m) in the Table and is not concerning the side yard setback requirement, thus it should be deleted from this column.*
- *Footnote (l), related to the side-yard setback should be added to the column for “Minimum Yard Depth” for the column labeled “Side”*
- *Footnote (m) should be deleted entirely.*

Mr. Peterson made a motion to approve the amended/corrected Footnotes (l) and (m) in the Table of Dimensional Requirements in the Zoning Code of the Town of Bethany Beach. Ms. Denault seconded the motion and it was unanimously approved.

Mr. Killmer expressed appreciation to Ms. Frederick for her efforts on this matter.

### *Review and Vote on the Proposed Revisions and Recommendations of the 2010/2020 Bethany Beach Comprehensive Plan Following the PLUS Review (Killmer)*

Mr. Killmer explained that the PLUS Review’s proposed revisions of the 2010/2020 Bethany Beach Comprehensive Plan, were recommendations submitted by the Office of State Planning Coordination by various state committees.

Mr. Killmer reviewed the following recommendations from the PLUS Review that are not being considered:

- **Brown Fields:** The Town does not have any brown fields.

- **Create an “agricultural zone” on the zoning maps.** The Town is one (1) square mile in size, built out and land locked.
- **Consider creating and ordinance to establish a 100-foot buffer from all waterways, creeks, ocean, streams, etc.** The Town is built out, especially for properties that are near or abut bodies of water. Also, most lots in the Town adjacent to bodies of water are only one hundred feet (100’) deep or less to begin with.
- **Create a Delaware Wildlife Plan:** The Town is too small for a Wildlife Action Plan.

Mr. Killmer reviewed the PLUS suggestions that will be considered in the future. The Commission ensued with a discussion on the possible creation of affordable housing for Bethany Beach in the future.

Mr. Killmer has taken several courses on this concept. He stated that the issue is that coastal communities such as Bethany Beach have high property and land values, therefore providing low cost affordable housing for low to moderate income individuals and families would be difficult. He added that when more courses on this matter become available, they need to be better advertised.

Mr. Killmer emphasized that not having affordable housing readily available could create major issues in the future, because many elderly people living in Town may require health and aging related support services and those individuals who actually provide those much needed services are not able to afford to be located within Town limits which causes them to move further and further away from those who actually depend on these vital services.

Mr. Killmer advised that the Commission should focus on developing ways to accomplish establishing affordable housing. It will be included as an agenda item for a future Planning Commission meeting.

Mr. Boswell expressed concern with the Town being too small for compact housing.

Mr. Gaughan explained that he has a relative with special needs, and he feels that it is important to find ways to solve this issue. As an example, establishing a group home for patients with Alzheimer’s disease would be beneficial. He added that even though the Town is approximately one (1) square mile long, it shouldn’t be excluded from other opportunities.

Mr. Gaughan expressed that he agrees with all of Mr. Killmer’s points, although he is concerned that the Town Solicitor has not reviewed the State’s list of recommendations. He is especially concerned with the second paragraph of the PLUS review letter from the Office of State Planning Coordination, which states: *“Please note that changes to the plan, other than those suggested in this letter, could result in additional comments from the State. Additionally, these comments reflect only issues that are the responsibility of the agencies represented at the meeting.”*

Mr. Killmer explained that the Town Solicitor is not responsible for reviewing the Comprehensive Plan. He added that he discussed the recommended changes with the Office of State Planning Coordination Director Sussex County's representative Bryan Hall and he was told that the suggestions must be reviewed and considered by the Commission, however, it is not required that all of the proposed changes be made to the Comp. Plan.

Mr. Peterson acknowledged that the State Agency planners asked if the Town's Comp. Plan could be used as a template for the State's Comp. Plan Certification, noting that some of the reviewers felt that the suggestions were not necessary.

Mr. Gaughan said that in the previous 2005 Comp. Plan, there were pages that included a listing of the Planning Commission members. He questioned if the 2010/2020 Comp. Plan is include the names of the Commissioners.

Mr. Killmer responded that there is a page in the final 2010/2020 Comp. Plan that lists the all-federal, state, county and local elected officials as well as the members of the Planning Commission.

Mr. Gaughan made a recommendation that a memorial to Kathleen Mink also be included in the Comp. Plan.

Mr. Killmer agreed that this is a good idea.

Mr. Killmer reviewed all of the changes he made to the 2010/2020 Comp. Plan with the Commissioners and they made a couple additional revisions.

Mr. Killmer acknowledged that the Town Manager, Cliff Gravier also reviewed the Comp. Plan and he was comfortable with all of the changes.

In reference to *Recommendation 4: Stormwater Utility*, found on page 70 of the Comp. Plan, Mr. Killmer mentioned that he was recently appointed to the Sussex County and the Delaware Clean Water Advisory Council, and he has reviewed all of the minutes on the previously held meetings. He found that the Town ordinance regarding flood damage prevention and stormwater management were up to date but still needs to add additional definitions to create a better document. He added that the SB64 Committee will be creating a set of minimum requirements for flood damage prevention and stormwater management and a draft proposal will be sent to all municipalities and counties for their input.

Ms. Denault questioned how long this process will take.

Mr. Killmer replied that is should be completed by 2013.

Mr. Boswell expressed his appreciation to Mr. Killmer on all of his excellent work on the

2010/2020 Comp. Plan. All of the Commissioners agreed.

Mr. Peterson made a motion to approve the 2010/2020 Comp. Plan as amended. Seconded by Mr. Boswell, the motion was unanimously approved.

## **OLD BUSINESS**

*Consider Amending the Section of the Town Code Regarding Fences (425-16B) (Killmer)*

The Commission spent the balance of the meeting doing a line-by-line review of the drafted ordinance of Section 425-16. Regulation of Perimeter Fences.

Mr. Killmer stated that he would make all of the discussed revisions to the document and develop a final draft to be presented to the Town Council to vote on for approval in the future.

Mr. Killmer thanked the Commissioners for all of the input they provided towards this drafted ordinance.

## **SUMMARY OF ACTION ITEMS**

- A. Ms. Frederick will check to see if the Code already possesses a definition for “retaining wall”, in reference to amending the section on Fences in the Town Code.
- B. Mr. Killmer will develop verbiage for the standard definition of “fence” to state as the first sentence in the drafted fence ordinance.
- C. Mr. Killmer will make all of the noted revisions to the amended ordinance on Fences.

## **ADJOURN**

Ms. Denault made a motion to adjourn the meeting. Seconded by Mr. Peterson, the motion was unanimously approved.

The meeting was adjourned at 11:38 a.m.

The next meeting is scheduled for February 18, 2012.

Respectfully Submitted:

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Lindsey Good  
Admin. Secretary, Assistant Town Clerk